

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Cosme Castillo Cervantes,

Petitioner,

v.

David Shinn, et al.,

Respondents.

No. CV-22-02131-PHX-DWL

ORDER

Pending before the Court are Petitioner's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (Doc. 1) and the Report and Recommendation ("R&R") of the United States Magistrate Judge (Doc. 16). The R&R, which was issued on September 22, 2023, recommended that the petition be dismissed with prejudice and further provided that "[t]he parties shall have fourteen days from the date of service of a copy of this recommendation within which to file specific written objections with the Court." (Doc. 16 at 12.)

Here, no such objections have been filed and the time to file objections has expired.¹ Thus, the Court accepts the Magistrate Judge's recommendation. *See, e.g., Thomas v. Arn*, 474 U.S. 140, 149-50 (1985) ("It does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings."); *Schmidt v. Johnstone*, 263 F.

¹ Following the issuance of the R&R, Petitioner filed a motion for an evidentiary hearing (Doc. 17), but that filing—which the Court since denied (Doc. 18)—did not contain any objections to the R&R or indeed any reasoned argument on any topic.

1 Supp. 2d 1219, 1226 (D. Ariz. 2003) (“[N]o review is required of a magistrate judge’s
2 report and recommendation unless objections are filed.”). *See also United States v. Reyna-*
3 *Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (“[T]he district judge must review the
4 magistrate judge’s findings and recommendations de novo *if objection is made*, but not
5 otherwise.”).

6 Accordingly,

7 **IT IS ORDERED** that the R&R’s recommended disposition (Doc. 16) is accepted,
8 that the Petition (Doc. 1) is dismissed with prejudice, and that the Clerk of Court shall enter
9 judgment accordingly.

10 **IT IS FURTHER ORDERED** that a certificate of appealability and leave to
11 proceed in forma pauperis on appeal be **DENIED** because petitioner has not made a
12 substantial showing of the denial of a constitutional right and because the dismissal of the
13 petition is justified by a plain procedural bar and jurists of reason would not find the
14 procedural ruling debatable.

15 Dated this 13th day of October, 2023.

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20 Dominic W. Lanza
21 United States District Judge
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